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MAILED
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OFFICE OF PETITIONS

In re Application of :
McKee et al. :
Application No. 10/691,885 : **DECISION ON PETITION**
Filed: October 23, 2003 :
Attorney Docket No. MFCP.109834 :

This is a decision on the renewed petition, filed November 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Corrected Application Papers (Notice), mailed July 22, 2010, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 6, 2010.

Petitioner asserts that the Office action dated July 22, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

- (1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.
- (2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.
- (3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Office of Data Management technical support staff for re-mailing the Office action of July 22, 2010. The period for reply will run from the mailing date of the Office action.

A handwritten signature in black ink, appearing to read "Liana Walsh", written in a cursive style.

Liana Walsh
Petitions Examiner
Office of Petitions